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COMMISSION ON HUMAN RIGHTS

Forty-ninth session

SUMMARY RECORD OF THE 48th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 2 March 1993, at 3 p.m.

Chairman: Mr. ENNACEUR (Tunisia)

later: Mr. GARRETÓN (Chile)

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The meeting was called to order at 3.10 p.m.

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 16) (continued) (E/CN.4/1993/L.20/Rev.1 and L.29)

Draft resolution E/CN.4/1993/L.20/Rev.1

1. Mr. PACE (Secretary of the Commission) said there were two changes to be made to the draft resolution: in operative paragraph 7, the words "minority and" should be deleted while, in operative paragraph 8, the words "to ratify" should be replaced by the words "to consider ratifying".

2. In the Spanish version of the draft resolution, the words "otros tipos análogos" in the title and in the body of the text should be replaced by the words "las formas conexas".

3. Mr. SEZGIN (Observer for Turkey), introducing the draft resolution, said that it was based on an initiative originally taken by the Sub-Commission. Its text was the result of the joint collaboration of a number of delegations from various regional groups.

4. The United Nations human rights system had a definite gap in its machinery for combating racism and the violent manifestations of that phenomenon. The adoption of the draft resolution, which called for the appointment of a thematic special rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance, would fill that gap and constitute a decisive step in the fight against those evils.

5. Mr. LARSEN (Observer for Denmark), speaking in explanation of vote before the vote on behalf of the European Community and its member States, said that the Community had always been vehemently opposed to all forms of racism and racial discrimination and had lost no opportunity to condemn those odious practices. Racism was not limited to one particular region of the world; it was a global phenomenon. Nor was it new. At its root was intolerance.

6. As racism and racial discrimination had not been eliminated, there was an urgent need for further effective action by the United Nations in that field. For that reason, the Community supported the establishment of a thematic special rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance as a constructive step towards combating those phenomena. The mandate of such a rapporteur should not be limited in space or in time, but should be broad and general, reflecting the regrettable fact that racism and xenophobia were global and continuing scourges. By addressing those problems, the Commission was making an important distinction between racism and racial discrimination as institutionalized governmental policy and the various manifestations of racism, xenophobia and intolerance that took place within society.

7. On 23 February 1993, the States members of the European Community had tabled draft resolution E/CN.4/1993/L.29 entitled "Measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance". However, with a view to reaching a consensus on their primary goal, they had decided to participate actively in the negotiations based on the Sub-Commission's draft, which had culminated in the compromise text contained in draft resolution E/CN.4/1993/L.20/Rev.1. In the circumstances, they had decided to withdraw their own draft resolution and to go along with the adoption without a vote of the compromise draft resolution.

8. Mr. DESSER (Austria) said that his country had always been strongly opposed to all forms of racism and racial discrimination, including those distressing forms of racial discrimination, xenophobia and intolerance that occurred in some countries despite official policy. His Government rejected those attitudes, condemned their terrible effects and would continue to do its utmost to prevent such phenomena from taking root anywhere, but especially in Austria. All such attacks must be condemned, whether directed against minorities, migrants, asylum seekers, indigenous persons or anyone at all of a different race, colour, descent, national or ethnic origin, language or religion.

9. It was urgently important that the Commission should take action, and his delegation thus supported the draft resolution.

10. Mr. Garretón (Chile) took the Chair.

11. Mr. PACE (Secretary of the Commission) said that the delegations of Australia, Brazil, Canada, Chile, Colombia, Cuba, Malaysia, Mexico, Pakistan and Tunisia and the observer for Norway had joined the sponsors of the draft resolution.

12. As for the financial implications of the draft resolution, which would be circulated as document E/CN.4/1993/L.58, he said that the total cost of implementing the mandate contained in operative paragraphs 10, 11 and 12 was estimated at US$ 742,400.

13. The CHAIRMAN said that, if he heard no objection, he would take it that the Commission wished to adopt the draft resolution without a vote.

14. It was so decided.

15. Mr. YAMAZAKI (Japan), speaking in explanation of vote, said that his Government's position on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families remained unchanged.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(agenda item 12) (continued) (E/CN.4/1993/7, 36-40, 41 and Add.1, 42-49, 75, 76, 79, 82, 86, 95, 99 and 102; E/CN.4/1993/NGO/6, 8, 12, 16, 23, 26-28, 31 and 38; E/CN.4/1992/29, 30 and Add.1, 32-34, 50 and Add.1 and 51; A/47/240, 367 and Add.1, 596, 617, 621, 625 and Corr.1, 651 and 656)

16. Mr. YOKOTA (Special Rapporteur on the situation of human rights in Myanmar), introducing his report (E/CN.4/1993/37), said that it marked the first time that the situation of human rights in Myanmar had been taken up under a public procedure by the Commission. At the invitation of the Government of Myanmar, he had visited that country from 7 to 14 December 1992, later visiting Bangladesh for the purpose of acquiring written and oral evidence from Myanmar Muslim refugees from Rakhine state. From 17 to 19 December, he had visited Myanmar ethnic minorities in Thailand to ascertain the situation of human rights within Myanmar for those ethnic minorities.

17. However, "full and unreserved cooperation" as required by Commission resolution 1992/58, operative paragraph 4, had not been forthcoming. Many persons and groups, including non-governmental organizations, wishing to approach him to provide information relevant to his mandate had been prevented from doing so by intimidation and threats. He had not been allowed to see a number of persons he had wished to contact, including all the political leaders still under detention, notably the Nobel Peace Prize laureate, Daw Aung San Suu Kyi.

18. The report was based on information provided by Government authorities, intergovernmental organizations, non-governmental organizations and individuals from Myanmar. The amount of information received had been copious. Apart from a small amount of written information that could not be independently verified, the testimony compiled had been consistent in demonstrating a pattern of grave violations of human rights in Myanmar.

19. With regard to restrictions on personal freedoms, including freedom of expression, freedom to receive and impart information and the right to peaceful assembly, the testimony received indicated that violations had occurred primarily as a result of attempts by citizens to participate freely in the political process and the transition to a democratically elected civilian Government (para. 227).

20. Concerning the right to physical integrity, he had received numerous reports of detention without minimum guarantees, torture, ill-treatment, rape, disappearances and arbitrary executions allegedly carried out by the Myanmar authorities (primarily in connection with attempts by citizens to participate in the political process) forced portering and labour and the imposition of oppressive measures on ethnic minority groups (para. 228). After the 1988 and 1990 demonstrations, thousands of persons had reportedly been killed by the military (para. 232). In addition, approximately 250,000 Rakhine Muslims had been forced to flee across the border into Bangladesh (para. 235).

21. He had thus proposed some recommendations for consideration by the Government of Myanmar whereby it could fulfil its obligations under Articles 55 and 56 of the Charter (para. 242). They included acceding to the International Covenants on Human Rights and other international instruments; allowing the International Committee of the Red Cross free access to detainees; bringing the country's legal system into line with accepted international standards; lifting the state of emergency and martial law; eliminating forced labour; promoting the repatriation of the Rakhine Muslims by creating the necessary conditions for respecting their human rights; training military and law-enforcement officers with respect to their responsibilities under the relevant international human rights instruments; condemning all acts by officials involving human rights violations, without any system of impunity; and bringing to trial by an independent and internationally accessible civilian court, Daw Aung San Suu Kyi and all other persons arrested or detained under martial law.

22. Mr. ERMACORA (Special Rapporteur on the situation of human rights in Afghanistan), introducing his report (E/CN.4/1993/42), said that he had recently been informed that a new cease-fire was in place in Kabul and that political elements were meeting outside Afghanistan in an effort to resolve the situation.

23. Although the change of Government in the spring of 1992 had gone smoothly, the conflict in Afghanistan had persisted, the forces of the opposition to the former Afghan Government having proved incapable of establishing an effective Government. Such a Government was, however, vital for rectifying the human rights situation, restoring peace and unity and rebuilding the country.

24. There was a clear need for the international community to respond and the Secretary-General had launched two consolidated appeals for emergency humanitarian assistance in June 1992 and January 1993 respectively, designed to raise substantial funds for humanitarian action in areas such as mine clearance, voluntary repatriation, food aid, health, water supply and sanitation, emergency agricultural inputs and relief management support, for the purpose of assisting 2 million people in Afghanistan and the refugees who were expected to return in 1993.

25. The human rights situation was a product partly of the war against the Soviet forces and the former Government and partly of the current armed power struggle, whose victims were mainly civilians. To assess the facts, it was necessary to visit the country and other parts of the region. Unfortunately, although he had visited refugee camps and hospitals in Pakistan, he had been able to visit only Jalalabad and Mazar-i-Sharif in Afghanistan and had not visited Kabul since January 1992. In Pakistan, he had met officials of the Ministry for Foreign Affairs as well as some Afghan leaders but he had been unable to meet representatives of the Central Government in Kabul or to visit prisons and detention centres in the capital or elsewhere.

26. The country's new political leadership had based its policies on the Peshawar Accord, concluded on 24 April 1992. A Shura Ahl-e-Hal Wa Aqd (Council for problem-solving and agreement-making) had been held from 29 December 1992 to 1 January 1993, but there was still no government,

prime minister or constitution in Kabul, which had been the principal target of the armed power struggle. The city had suffered indiscriminate shelling and rocket attacks by the Hezbe Islami (Hekmatyar) party, causing unprecedented damage and heavy civilian casualties.

27. One of the main consequences of the earlier conflict was the refugee problem: more than 1 million refugees had returned to Afghanistan during 1992 but a further 4 million still remained abroad. However, the deterioration in the security situation in Afghanistan had slowed the flow of returning refugees, while the problem had been aggravated by the situation in neighbouring Tajikistan which had produced an exodus of Tajik refugees to Afghanistan. Moreover, thousands of people fleeing the combats in Kabul had either become refugees in Pakistan or displaced persons in areas as yet unaffected by the armed struggle. As pointed out in the study by the Representative of the Secretary-General on the human rights issues related to internally displaced persons (E/CN.4/1993/35), a legal framework for providing assistance to displaced persons was urgently needed.

28. A further source of concern in Afghanistan was the administration of justice, which existed to some extent at the local and regional levels, but without any proper hierarchy to guarantee the rule of law. The information he had received concerning the carrying out of death sentences in the second half of 1992 was shocking and, notwithstanding the principles of Islamic law, a country which was party to the International Covenant on Civil and Political Rights must abide by the rules relating to the death penalty enshrined therein.

29. As stressed by the Secretary-General in his report to the General Assembly at its forty-seventh session (A/47/705), the general amnesty declared at the time of the transfer of power in April 1992 should apply to all, and guarantees of safety and security should be provided for all Afghans, together with respect for human rights and the protection of personal property.

30. Although the former Government had reduced the number of political prisoners towards the end of its rule and the new Government had released the remaining prisoners and declared a general amnesty, a number of armed factions and political groups had since taken their own prisoners, allegedly to the number of 3,000. There were also reports that officials of the former Government had been detained and interrogated. Moreover, former Soviet soldiers were still being detained by former opposition forces.

31. The whereabouts and exact number of prisoners of various kinds were not known and elucidation of their fate was an absolute priority. They should not be held as hostages. It was clear that, under international law, the former Soviet prisoners must be released. The Russian authorities, incidentally, had expressed their willingness to send home any Afghan children still remaining in the territory of the Russian Federation.

32. It was estimated that 7 to 10 million mines had been laid in Afghanistan, a situation which posed a grave threat to the right to life. Despite the courageous efforts of those involved in mine-clearance operations, additional

technical assistance and personnel were needed, since normal life could not resume and the agricultural sector could not be rehabilitated until the clearance operations were completed.

33. Political stability was an absolute prerequisite for the reconstruction of Afghanistan and the need for effective central government was paramount. From the outset, the United Nations had firmly impressed upon the Government that the Shura held at the end of December 1992 should be fully representative of all the elements of Afghan society, regardless of ethnic, gender, religious or political affiliations. Reports indicated that that had not been the case and that the majority of speakers at the Shura had been clerics. In any case, the aftermath of the Shura had been an even deeper division between the two parties making up the Government and the parties of the opposition. That division was the root of the conflict in Kabul, which could easily spread to the rest of the country.

34. The United Nations could not only contribute to the enjoyment of minimum standards for economic, social and cultural rights, but could also advise the political elements in the country on how respect for civil and political rights should be ensured. Disagreements must be settled at the negotiating table. The international community should not apply different standards to different human rights situations and it could not remain indifferent to the fate of the Afghan people.

35. Mr. NDIAYE (Special Rapporteur on extrajudicial, summary or arbitrary executions), introducing his report (E/CN.4/1993/46), said that he had been shocked by the disparity between the scale of the task he had been given and the meagreness of the resources made available by the international community. The lack of facilities, equipment, documentation and staff was a serious handicap which must be overcome if the Commission was serious about eradicating the practice of extrajudicial, summary or arbitrary executions.

36. With regard to the legal framework within which his mandate was implemented, he had taken the view that, since the mandate extended to the right to life in the broadest sense, there was no reason not to include the Convention on the Prevention and Punishment of the Crime of Genocide of 1948 among the legal instruments to be taken into account. He had also taken into consideration the interpretation by the Committee on Human Rights of article 6 of the International Covenant on Civil and Political Rights, together with the highest standards relating to the right to a fair trial, when examining violations of the right to life in connection with the death penalty.

37. Account had also been taken of the irreversible nature of the death penalty and the desire of the international community to see it used as little as possible or even abolished. Special protection against extrajudicial, summary or arbitrary executions was also needed for minors, the mentally handicapped, refugees and persons in detention, women and children in armed conflicts and human rights defenders.

38. One of the main factors influencing the spread of summary executions was the impunity which their perpetrators enjoyed in certain States, especially if they were members of the armed forces or police. Executions carried out by armed opposition groups, paramilitary groups and death squads were also a source of great concern.

39. The report did not claim to provide a full picture of extrajudicial, summary or arbitrary executions throughout the world, but was rather an account of how he had carried out his mandate during the period in question. Had it not been for the efforts and commitment of the non-governmental organizations, very few allegations would have reached him at all. In the report, he described the methods used to evaluate the credibility of allegations, the position taken vis-à-vis national remedies and the place accorded to national legislation in the hierarchy of rules. He had also highlighted the problems posed by the absence of allegations in situations where it was widely known that extrajudicial executions were being carried out.

40. During his mandate, he had received 3,500 allegations of summary executions, which had been transmitted to 52 Governments. Despite the provisions of the Convention on the Rights of the Child, 189 of the allegations concerned persons under the age of 18. Out of the total, 519 cases concerned alleged violations of the right to freedom of opinion and expression, the right to freedom of religious belief and the right to peaceful assembly. On approximately 40 occasions, he had reminded the Governments concerned of their obligation under Commission resolution 1992/59 to protect those who availed themselves of or cooperated with procedures established under United Nations auspices.

41. Since he had drawn up the list of Governments that had not replied to the allegations he had transmitted to them (para. 692), replies had been received from a number of Governments, namely, the de facto Government of Haiti and the Governments of Lesotho, Sudan, United States of America and Yemen. A number of other Governments had replied to follow-up letters addressed to them: Brazil, India, Myanmar, Peru, Sudan, Chad, Thailand, Turkey, Argentina, Ethiopia, Jamaica, Senegal, Trinidad and Tobago and Mauritania. In cases such as those of South Africa and Zaire, where a Government kept silence systematically over the years, he sought the guidance of the Commission on ways to encourage better cooperation.

42. In an endeavour to achieve dialogue with all, he was holding an extremely fruitful series of informal meetings with regional groups and seeking to pay visits to countries. Such visits were not aimed at placing Governments in the dock, but were, on the contrary, the only means for him fully to understand the legal, social and political-economic context of a country in order to assess the accuracy of allegations and the best way to deal with them.

43. In that spirit, he had accepted an invitation given by the Government of Peru to his predecessor, obtained an agreement in principle from the Government of Turkey for a visit and requested invitations to visit the People's Republic of China and Rwanda and to make a follow-up visit to Colombia.

44. The large number of violations of the right to life based on racial, ethnic or religious discrimination, which often led to conflicts between communities with the active or passive complicity of the forces of order, required a mechanism for monitoring such conflicts and preventing extrajudicial executions (para. 684). The report also stressed the need to give serious consideration to the question of human, material and financial resources (paras. 700-702) and to increase the publicity given to his reports (paras. 703-705). He hoped that the item would be included in the agenda of a meeting of special rapporteurs and experts in preparation for the forthcoming World Conference on Human Rights.

45. Mr. NIKKEN (Independent Expert on the situation on human rights in El Salvador), introducing his report (E/CN.4/1993/11), said that El Salvador had been the scene of a significant United Nations effort in pursuit of peace, democratization, national reconciliation and strict respect for human rights. The signing of the Peace Agreements by the Government of El Salvador and the Frente Farabundo Marti para la Liberación Nacional (FMLN) had put an end to the war, and peace was viewed as an irreversibly won right. The former FMLN combatants had been reintegrated into the civilian, institutional and political life of the country, and the task of building a new, more democratic society with full respect for human rights had begun. The task of the Independent Expert was thus mainly to assess the impact of the Peace Agreements on the effective enjoyment of human rights.

46. He drew attention to the conclusions and recommendations in his report (paras. 252-281), of which he gave a brief summary.

47. Mr. VOLIO JIMENEZ (Expert on the human rights situation in Equatorial Guinea), said that his report (E/CN.4/1993/48) covered the most relevant events in Equatorial Guinea during 1992 and focused on complaints of human rights violations attributed to the Government of the country (paras. 12-22). Although the period covered in the report had ended for technical reasons on 15 December 1992, information and complaints of human rights violations continued to be received.

48. As a first measure in fulfilment of his mandate, he had sought the opinion of the Government of Equatorial Guinea on the report, in which he had reiterated the need for the Government to implement the "Emergency Plan of Action" recommended in his previous report (E/CN.4/1992/51, para. 125) since, after 14 years of experience in dealing with the case of Equatorial Guinea, he was convinced that without clear and systematic attitudes and action by the Government, no progress was possible.

49. The Government of Equatorial Guinea had neither expressed an opinion on the "Emergency Plan of Action" nor implemented any other plan. Despite its announcement of the authorization of political parties, ministerial changes and a few limited and isolated measures, the situation continued to be serious and had even deteriorated, as detailed in the report. Power was still concentrated in the hands of the President, and repression was directed not only at members of opposition political parties but at other sectors.

50. Detentions, ill-treatment, reprisals and intimidations continued to be frequent. In that connection, he referred to the violent repression by the police of a demonstration on 17 December 1992 at Malabo on behalf of several teachers detained and ill-treated by the police. The demonstrators had been attacked by the police and several of them had been detained and beaten, including two Catholic priests, whom the President had refused to release for treatment despite the intercession of the Expert.

51. One of the most seriously ill-treated demonstrators, Mr. Celestino Bakale Obiang, a mining engineer and teacher at the country's leading high school, had suffered constant persecution for belonging to a political party, including dismissal from posts, detention and a beating that had forced him to seek medical attention outside the country. Mr. Bakale was currently in Switzerland and had made both verbal and written statements to the Centre for Human Rights reporting what was occurring in the country. Other recent information received by the Expert was contained in paragraphs 12 to 19 of his report.

52. Some 14 years after the ouster of the terrible dictator Francisco Macías, the country was moving even further from the democratic goal that the people and Government had set for themselves at that time. United Nations efforts must be intensified if human rights were to be adequately protected in Equatorial Guinea.

53. Mr. GROTH (Special Rapporteur on the situation of human rights in Cuba) said that, because of the complete lack of cooperation by the Cuban Government and the resultant impossibility of visiting the country, he had had to prepare his report (E/CN.4/1993/39) using information received from individuals and non-governmental organizations. Every effort had been made to retain only the most reliable and up-to-date information, but some margin of error was inevitable. He had also taken into account the information supplied by the Government of Cuba in reply to communications transmitted to it by various United Nations mechanisms during 1992 (paras. 10-19), and the reports by the International Labour Organisation on trade union freedom (paras. 56-58).

54. The report did not claim to make an exhaustive analysis of the situation regarding each and every one of the rights set forth in the Universal Declaration. The impossibility of visiting the country and of talking directly to the various social sectors had prevented him from going deeply into many aspects, including the legal and institutional aspects. The report was therefore focused on certain rights whose violation appeared to be most frequent and striking.

55. One of the most visible and general problems facing the population was the lack of freedom of opinion and expression, with all the consequences that derived therefrom. At its previous session, the Commission had approved without a vote resolution 1992/22 on the right to freedom of opinion and expression, in which reference was made to the link between violations of the right to freedom of opinion, and expression and violations of other fundamental rights. In his opinion, that link was clear in the case of Cuba.

56. By way of illustration, the report examined a series of cases of persons who, in 1992, had been sentenced to terms of imprisonment in trials at which the guarantees established by law had not been respected or who had been subjected to intimidation or temporary detention or had lost their employment for having expressed opinions considered to be critical of the regime or for having belonged to groups which, despite having applied for legalization, had never received a reply from the authorities (paras. 40-55).

57. In some cases, other family members had been directly affected by measures such as the loss of employment or expulsion from educational establishments. Such cases were by no means infrequent. Moreover, the immense majority of the activities of the persons concerned had been utterly peaceful, and many of them had demonstrated a clear attachment to their country; nevertheless, the authorities continued to show, as in the past, great intransigence. An improvement in the human rights situation in Cuba must necessarily begin with a dialogue between the authorities and the various currents of opinion existing in the country.

58. The situation of the prison population also continued to be a cause of concern, since the living conditions of prisoners appeared to have deteriorated alarmingly in the past year (paras. 73-79). It should be borne in mind that, in any country, the group most dependent on the State and therefore most vulnerable to any defect in the functioning of the system was the prison population.

59. The report did not mention the right to life because, in the period it covered, violations such as summary or arbitrary executions or enforced or involuntary disappearances had not been representative of the situation in Cuba. The Cuban political system and Cuban society had their own specific characteristics, and consequently the human rights situation and systematic violations also had their own specific features. However, that in no way justified the violations that occurred, even when comparisons were made with other countries.

60. From the legislative point of view, it was worth mentioning that the 1976 Constitution had been revised in July 1992. In his report (paras. 21-25), he had tried to put together those aspects of the revision that appeared most important for human rights. Nevertheless, he considered that the changes made would help to a very small extent only to raise the level of human rights protection. He had also taken note of the new Elections Act approved in October 1992 (para. 25) and on the basis of which municipal elections had been held in December 1992 and elections to the national and provincial assemblies on 24 February 1993. Those elections had enabled the people to vote directly for the first time. However, the fact that they had been held under a one-party system and that the voters had been unable to choose between different lists raised doubts about the Cuban people's real possibility of designating its representatives. The legislative developments he had mentioned should have given to sectors which had no voice but which undoubtedly existed an opportunity to participate in the political process.

61. He hoped that the Commission would give particular consideration to the conclusions and recommendations contained in his report (paras. 80-91).

62. Mr. PÉREZ NOVOA (Cuba) said that his Government had given many examples of its scrupulous respect for the international contractual obligations it had entered into as a State Member of the United Nations and ample proof of its desire to cooperative with the Centre for Human Rights, and other relevant human rights mechanisms, such as those established under Economic and Social Council resolution 1503 (XLVIII), and with the Commission's thematic rapporteurs and working groups, as had been recognized in their various reports. It had also, on many occasions, reiterated its willingness to continue to cooperate with regard to all mechanisms and procedures applied to all States on a universal, non-selective and non-discriminatory basis.

63. Everyone, however, was aware of his Government's decision to reject Commission resolutions 1991/68 and 1992/61, which were the product of the most unworthy manipulations and pressures by the United States of America. Consequently it did not accept the imposition of a Special Rapporteur as a result of a partial, selective, discriminatory and openly unfair procedure whereby an attempt was being made to place Cuba on the same footing as countries in which there was definitely a consistent pattern of gross violations of human rights as a result of a long-standing political vendetta. His Government had thus not offered, and would not offer, any cooperation to the Special Rapporteur or to any other rapporteur imposed upon the Commission in respect of Cuba.

64. Some days previously, the United States representative had stated that a certain resolution adopted over the negative vote of his delegation would be a dead letter, thereby displaying contempt for the votes of the other members of the Commission. By the same token, therefore, the United States delegation should logically recognize the right of Cuba not to comply with the provisions of Commission resolution 1992/61, which it had not only voted against but which had been approved by a very small majority as a result of grotesque manipulations and ferocious pressures, unless, of course the vote of the United States was the only one that counted in an Organization in which all Member States had equal rights to express their opinions and to have them taken into account.

65. Once against a double standard was being imposed on the Commission, marked by complacent indulgence for those who followed the dictates of the United States and by intransigence and condemnation for those who opted for a sovereign and independent course.

66. The Commission had before it the Special Rapporteur's report (E/CN.4/1993/39). It was most regrettable that the Special Rapporteur, who was acquainted with the realities of Cuba, should have lent himself to such an ideological vendetta. The report lacked the impartiality, objectivity and independence which, as the Special Rapporteur himself acknowledged (para. 83), every Commission rapporteur or expert must show. Moreover, its sheer volume, one half of which was unnecessary and repetitive, might mislead anyone who had not read it into believing that there really was a serious human rights problem in Cuba.

67. Paragraph 9 of the report listed the various sources the Special Rapporteur had consulted, placing on the same level non-governmental organizations of recognized prestige and credibility and tiny groups known for

their subservience to the United States in its policy of aggression against Cuba. He had seen fit to include in his report, however, only the opinions and information supplied by some alleged human rights groups which were covertly financed by an organization that was, in that regard, the success of the CIA, and had disregarded the opinions of respected non-governmental organizations. Such selectivity was evidence not only of his partiality but also of his intent to deceive readers into believing that the opinions reflected were those of all the sources he had consulted.

68. Thus, in paragraph 31 of chapter IV on the rights to freedom of opinion, assembly and association, the Special Rapporteur considered "worth mentioning" a document prepared by the non-governmental organization Americas Watch on 30 September 1992. However, he did not apparently consider "worth mentioning" another document prepared by the same organization in August 1992 which listed a number of cases of violations of the human rights of Cubans residing in Miami.

69. There was also an attempt in the report to extend in practice the mandate conferred upon the Special Rapporteur by the Commission. Thus, in paragraphs 12 to 18, he included a mutilated summary of the information on Cuba appearing in the reports submitted by thematic rapporteurs and working groups. It was not clear on what basis the report incorporated references to other reports resulting from Cuba's cooperation with mechanisms established under non-discriminatory procedures but it was significant that the practice was recommended in the draft resolution on Cuba being circulated by the United States delegation.

70. The Special Rapporteur also believed that he was entitled to question the Cuban Constitution (paras. 25, 28 and 29) and to accept as relevant (paras. 30, 35, 37 and 39) the questions on constitutional and legal rules put by the mission of the Commission on Human Rights which had visited Cuba in 1988 at the invitation of its Government. The Constitution was a matter solely for the people of Cuba, which had adopted it by an affirmative vote of 97 per cent, and for nobody else. The Constitution was essentially within the domestic jurisdiction of the State, and the Cuban people would never submit it to international scrutiny.

71. In paragraph 24, the Special Rapporteur mentioned that elections to the municipal assemblies had been held on 20 December 1992. He did not mention, however, that the turn-out for those elections which had been conducted by direct and secret ballot, had been 97.2 per cent of the population.

72. The Commission could not accept the report as a serious, objective and impartial document when the Special Rapporteur, on the subject of trade union freedom (chap. V), reproduced the conclusions reached by two competent organs as the result of an investigation made under ILO procedures. He was, perhaps, seeking to review Cuba's relations with all the international organizations of which it was a member and in respect of all the conventions which it had ratified.

73. With regard to chapter VI on religious freedom, his delegation was astonished at the Special Rapporteur's concern for alleged cases involving a Jehovah's Witness and a Seventh Day Adventist when publications that the

Special Rapporteur himself accepted as reliable sources denounced the ill-treatment and imprisonment of more than 500 Jehovah's Witnesses for having refused to perform compulsory military service in countries where violations of human rights were not apparently serious enough to merit the appointment of a special rapporteur. In any case, problems associated with Jehovah's Witnesses were in no way peculiar to Cuba but arose in most countries.

74. Cuba had never failed to comply with its commitments under Articles 55 (c) and 56 of the Charter (para. 84), as was evidenced by his Government's bold efforts over 34 years to guarantee to the entire Cuban people the rights to full freedom, human dignity, employment, health, education, housing, food, culture and recreation, even in the most difficult circumstances. In any case, there was no legal basis for requiring Cuba to comply with the provisions of texts that were merely recommendations and lacked binding force.

75. Disregarding the basic principle of the indivisibility and interdependence of human rights laid down in the United Nations Charter, the Universal Declaration and other human rights instruments, the Special Rapporteur had decided (para. 85) to focus his attention on some and to leave out others. If the right to life was not mentioned because violations of it were not characteristic of the situation in Cuba, it was left to the reader's imagination to inquire why economic, social and cultural rights were not considered. Perhaps the Special Rapporteur did not deem it relevant to examine the very important right of all peoples to development. By failing to do so, he avoided having to refer to the criminal and unjust blockade imposed against Cuba by the United States.

76. In his concluding paragraphs (89-91), the Special Rapporteur had refrained from mentioning by name those responsible for the climate of hostility to which he referred. It was unclear why he had not stated that the United States was the promoter of the most aggressive actions against Cuba, the most recent being the promulgation of the Torricelli Act.

77. The assessments made by the Special Rapporteur in paragraph 89 also called into question the validity of his appointment and the inclusion of Cuba for consideration under agenda item 12. If, by the expression "anchored in the past" he meant the decision of the Cuban people to maintain its independence and sovereignty and to defend the economic, political and social conquests of its Revolution, Cuba would certainly remain so and would continue its course towards a radiant future, despite the pressures to which it was subjected.

78. The Special Rapporteur had failed absolutely to establish that there was a consistent pattern of gross violations of human rights in Cuba. No such situation had been revealed either by the report submitted by the mission of the Commission on Human Rights which had visited Cuba in 1988, by the public debate on it held by the Commission in 1989 or by the report submitted by the Secretary-General to the Commission at its forty-seventh session.

79. The insistence on maintaining Cuba on the list of countries to be considered under item 12 thus had a single objective: to challenge the Cuban Revolution and support the United States political vendetta against Cuba. The Cuban people, which had experienced so many triumphs and so much suffering, would never surrender, however. On 24 February 1993, it had voted overwhelmingly not only for its Government but also for its Revolution, its political, economic and social system, its human rights, and its President.

80. Mr. SCHIFTER (United States of America), speaking in exercise of the right of reply, said that the response of the Cuban delegation to the very thoughtful report prepared by an outstanding authority on human rights gave an inkling of the outlook of the leadership in Havana. Instead of discussing the allegations presented, it had attacked the Special Rapporteur and, not surprisingly, the United States of America, neither of which needed defending. Cuba was in a "time warp", and the day was not far distant when it would emerge from it, free, independent and democratic.

81. Mr. YOUSIF (Sudan), speaking in exercise of the right of reply, said that the observer for Denmark speaking on behalf of the European Community, had made some allegations regarding the human rights situation in the Sudan. His delegation reiterated its conviction that those allegations were politically motivated and based on reports from dubious sources. Grossly biased, unbalanced, exaggerated and unjustified, they formed part of a well-orchestrated campaign against the Sudanese Government because of its Islamic orientation.

82. That could easily be inferred from the reference in the statement to the so-called "inhuman and degrading punishments", which presumably meant the Islamic penalties contained in the Sudanese Penal Code of 1991. Those penalties were divine and formed an integral part of the Islamic faith. The description of them by the observer for Denmark was thus a direct affront to all Muslims.

83. The statement by the observer for Denmark also contained some sweeping allegations based on fabrications by some quarters that were ignorant of the traditions and culture of the Sudanese people. The European Community and the United States of America were targeting Sudan for the political reasons that had been repeatedly explained by his delegation. They had manipulated the Commission by interrupting the confidential procedure with respect to Sudan under Economic and Social Council resolution 1503 (XLVIII).

84. They had opposed the recommendation of the Working Group on Situations and had refused to allow the Independent Expert to complete his investigation because they knew that it would deprive them of the excuses and pretexts on which they were basing their malicious campaign.

85. His delegation also dismissed as erroneous, exaggerated and unfounded the statement made by the representative of Amnesty International. Since October 1990, Amnesty International had repeatedly turned down invitations by the Government to visit the Sudan and verify its report. The latest had been an invitation to Amnesty International in January 1993 to attend a conference

on human rights at Khartoum and verify the allegations it had repeatedly made against the Sudan. Amnesty International would probably never accept an invitation to visit the Sudan, because, if it did so, it would no longer have any grounds for complaint. In view of its partiality and bias, Amnesty International was no longer a credible organization.

86. In any case, it was high time that the Commission stopped the imposition of human rights concepts, values and ideologies by a few countries that set themselves up as human rights judges, thereby using human rights issues as a means of applying political pressure.

The meeting rose at 6.15 p.m.